



## The Evidence Shows That "Stand Your Ground" Laws Undermine Law Enforcement and Public Safety

**Robert J. Spitzer**, College of William and Mary School of Law

Ten years ago, the state of Florida beefed up its "stand your ground" law – a law allowing a person who harms or kills another, often with a gun, to escape prosecution by claiming that he or she felt threatened and acted in self-defense. In other words, Florida's law – and many others like it – lets assailants go free merely by asserting their *belief* that the use of force was necessary to prevent serious harm or death to themselves or bystanders. Those who assert such beliefs become according to Florida law "immune from criminal prosecution and civil action." Prosecutions are not entirely ruled out, but authorities must meet very difficult standards to pursue cases.

Since 2005, about half of all U.S. states have passed Florida-style laws, or very similar ones. The National Rifle Association has led the charge, arguing that stand your ground laws will improve public safety and protect honest citizens.

By now, however, there is clear and compelling evidence that such laws have failed to improve public safety – and have encouraged mayhem reminiscent of America's old Wild West. Laws allowing claims of self-defense have existed for over a century, but Florida's new law and its imitators dramatically alter the law enforcement equation. According to David LaBahn of the Association of Prosecuting Attorneys, investigations of civilian killings are now often hamstrung by legal protections greater than those afforded police officers who use lethal force.

### The Florida Experience

Florida's 2005 law was invoked in nearly 200 shooting cases through 2012 – a majority of them involving fatalities. The cases were documented by the *Tampa Bay Times*:

- The Florida law's chief beneficiaries were "those with records of crime and violence." Nearly 60 percent of those making self-defense claims after killing someone had been arrested at least once before; a third had been accused of violent crimes or drug offenses; and over one-third had illegally carried guns or had threatened others with guns.
- In seven of every ten stand your ground cases, the person killed was unarmed – and in 79 percent of the cases, the assailant could have retreated to avoid the confrontation.
- Shooters who invoked stand your ground claims under Florida's 2005 law succeeded in escaping prosecution two-thirds of the time.

### Similar Trends in All Stand Your Ground States

Moving beyond Florida alone, other studies have documented equally worrisome trends:

- Reporters at the *Wall Street Journal* studied "justifiable homicides" nationwide from 2000 to 2010. They found that such killings increased by 85 percent in states with Florida-style laws (even though some states have more limited versions of stand your ground rules on the books). The increase occurred even though overall killings, adjusted for population growth, declined during this same period. According to the *Journal* investigation, more than 80 percent of the "justifiable" killings involved guns, compared with 65 percent of other killings where claims of justification were not made.
- For the same period, researchers at Texas A&M University found no evidence in data from the Federal Bureau of Investigation that stand your ground laws deterred crimes, including burglary, robbery, or

aggravated assault. Instead, in states with newly buttressed stand your ground laws on the books, the homicide rate increased by eight percent – which in human terms added up to about 600 additional homicides annually.

- Drawing on different data, a 2012 National Bureau of Economic Research study found Florida-type laws associated with a 6.8 percent increase in homicides.
- An Urban Institute study found significant racial disparities in “justified” killings between 2005 and 2010. In states without stand your ground laws, killings were ruled justified in 29 percent of instances where the shooter was white and the victim was black (with much lower rates of justification for white on white, black on white, and black on black killings). By contrast, in states with stand your ground laws on the books, white on black killings were accepted as justified 36 percent of the time (with more modest upticks in findings of justification for the other kinds of cases).

## **Time to Rethink Laws That are Undermining Public Safety**

The evidence is clear: Expanded stand your ground laws combined with more gun-carrying increases unnecessary violent confrontations and deaths. With more than 11 million Americans now licensed to carry guns, we need policies to defuse or avert public confrontations – and police and prosecutors must be able to conduct full investigations when incidents occur. A February 2015 American Bar Association report urges states to scale back legal immunity and restore the “safe retreat” standard in public places – a standard that requires people who feel threatened to avoid confrontation if they can do so safely. Since the beginning of 2015, legislators in ten states, including Florida, have introduced such measures. But many reform proposals are stalled, and 13 states are actually deliberating bills that would fortify stand your ground practices.

Long ago, Americans north and south acted to contain the dangers of open gun-toting and free-wheeling confrontations. As early as 1686, New Jersey enacted a law against wearing weapons because they induced “great Fear and Quarrels.” In the 1700s, three states passed no-carry laws. In the 1800s, as interpersonal violence and gun carrying spread, 37 states joined the list of those enacting restrictions. Alabama’s 1839 law was titled, “An Act to Suppress the Evil Practice of Carrying Weapons Secretly.” This history makes the current popularity of gun-carrying and stand your ground laws all the more mystifying. Apparently, twenty-first century Americans must now re-learn lessons their ancestors took to heart long ago.

**Read more in Robert J. Spitzer, *Guns across America: Reconciling Gun Rules and Rights* (Oxford University Press, 2015).**